

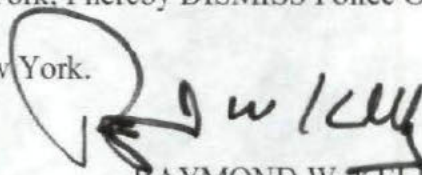


POLICE DEPARTMENT

-----X  
In the Matter of the Disciplinary Proceedings :  
- against - : FINAL  
Police Officer Owen Hopper : ORDER  
Tax Registry No. 936780 : OF  
Manhattan Court Section : DISMISSAL  
-----X

Police Officer Owen Hopper, Tax Registry No. 936780, Shield No. 22335, Social Security No. ending in [REDACTED], having been served with written notice, has been tried on written Charges and Specifications numbered 86501/10 and 2010 - 3250, as set forth on form P.D. 468-121, dated December 1, 2010 and May 26, 2010 respectively, and after a review of the entire record, has been found Guilty as Charged.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Owen Hopper from the Police Service of the City of New York.

  
RAYMOND W. KELLY  
POLICE COMMISSIONER

EFFECTIVE: ON SEPTEMBER 28, 2011 @0001HRS



POLICE DEPARTMENT

June 10, 2011

-----X  
In the Matter of the Charges and Specifications

: Case Nos. 86501/10 &  
2010 - 3250

- against -

Police Officer Owen Hopper

Tax Registry No. 936780

Manhattan Court Section  
-----X

At:

Police Headquarters  
One Police Plaza  
New York, New York 10038

Before:

Honorable Robert W. Vinal  
Assistant Deputy Commissioner - Trials

A P P E A R A N C E:

For the Department:

Vivian Joo, Esq.  
Department Advocate's Office  
One Police Plaza  
New York, New York 10038

For the Respondent:

Craig Hayes, Esq.  
111 John Street – Suite 640  
New York, NY 10038

To:

HONORABLE RAYMOND W. KELLY  
POLICE COMMISSIONER  
ONE POLICE PLAZA  
NEW YORK, NEW YORK 10038

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POLICE OFFICER OWEN HOPPER

The above-named member of the Department appeared before me on March 31, 2011 and May 2, 2011, charged with the following

Disciplinary Case No 86501/10

1 Said Police Officer Owen Hopper, while assigned to the 47<sup>th</sup> Precinct, while off-duty, on or about September 8, 2009, did fail and neglect to properly safeguard his firearm in that said Police Officer placed his firearm in his backpack and it was not in a locked, fixed container

P G 204-08, Page 2, Paragraphs 7&8 – FIREARM GENERAL REGULATIONS  
UNIFORMS AND EQUIPMENT

2 Said Police Officer Owen Hopper, while assigned to the 47<sup>th</sup> Precinct, while off-duty, on or about September 8, 2009, having become aware of an allegation of corruption or serious misconduct involving a member of the service, did fail and neglect to notify his Commanding Officer and/or the Internal Affairs Bureau Command Center, as required, to wit said Police Officer failed to notify the Department that he was the subject of an investigation conducted by Iona College Security and New Rochelle Police Department

P G 207-21, Pages 1-2 – ALLEGATIONS OF CORRUPTION AND OTHER  
MISCONDUCT AGAINST MEMBERS OF THE  
SERVICE

3 Said Police Officer Owen Hopper, while assigned to the 47<sup>th</sup> Precinct, while off-duty, on or about September 8, 2009, did wrongfully impede an investigation conducted by Iona College Security, to wit said Police Officer attempted to elude Iona College Security by changing and discarding his clothing when said Police Officer became aware Iona College Security was looking for a male individual matching his description

P G 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT-PROHIBITED  
CONDUCT

4 Said Police Officer Owen Hopper, while assigned to the 47<sup>th</sup> Precinct, while off-duty, on or about and between September 8, 2009 to September 30, 2009, engaged in conduct prejudicial to the good order, efficiency and discipline of the department, to wit said Police Officer, after becoming aware that he was the subject of a Department investigation, informed a witness to his investigation, [REDACTED], that she would be contacted by the Department without permission or authority to do so

P G 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT-PROHIBITED  
CONDUCT

POLICE OFFICER OWEN HOPPERDisciplinary Case No. 2010-3250

1 Said Police Officer Owen Hopper, while assigned to the 47<sup>th</sup> Precinct, while on-duty, on or about June 4, 2009, at the 47<sup>th</sup> Precinct, engaged in conduct prejudicial to the good order, efficiency, or discipline of the Department, to wit said Police Officer exposed his penis to Elizabeth Alfieri, an arrestee, and made vulgar and profane comments to her

P G 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT–PROHIBITED  
CONDUCT

The Department was represented by Vivian Joo, Esq , Department Advocate's Office, and the Respondent was represented by Craig Hayes, Esq

The Respondent, through his counsel, entered a plea of Guilty to one of the subject charges and pleas of Not Guilty to the remaining charges A stenographic transcript of the trial record has been prepared and is available for the Police Commissioner's review

DECISIONDisciplinary Case No. 86501/10

The Respondent, having pleaded Guilty, is found Guilty

Disciplinary Case No. 2010-3250

The Respondent is found Guilty



POLICE OFFICER OWEN HOPPER

SUMMARY OF EVIDENCE PRESENTED

The Department's Case

The Department called Elizabeth Alfieri, Detective Brian Smith and Detective Claude Rhone, as witnesses

Elizabeth Alfieri

Alfieri, who resides in [REDACTED], is 30 years old, is unmarried, has two children, and is employed as a sales representative for Cablevision, recalled that on the morning of June 4, 2009, she received a telephone call from Detective Santoro who told her that he wanted her to come to the 47 Precinct because he needed to question her regarding a complaint her sister had made against her. She went to the 47 Precinct accompanied by her best friend. Her friend waited outside as Santoro brought her into a room on the second floor, questioned her and then told her that he was arresting her on a charge of "fraud." Santoro then escorted her to the first floor and into a holding cell. Santoro told her that she would have to stay there until she was transferred to Central Booking. As he left, he told her that he was going to go straight to Central Booking and "file the paperwork" so that she could "get out by evening." She described Santoro as being "like a ray of sunshine. He was so nice. I was scared because I didn't know what was going to happen. He was very helpful, he gave me his card. He knew some other things my sister told him." Santoro told her that if she "needed any help looking for a place to stay or for a house or a job, to call him."

While she was waiting inside the holding cell to be transported to Central Booking, an officer, who she assumed was a detective, came to the holding cell and asked

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her if he could question her about check fraud because checks had been stolen from a church. The officer was "wearing a black button down dress shirt with a collar, a tie, and black slacks with a belt." Alfieri identified the Respondent in the Trial Room as this officer. She had seen the Respondent shortly before on the second floor. He was sitting nearby when she and Santoro were conversing about the fact that her sister had told Santoro about a relationship that she was in that "was not good, and you know, she sort of told him I was into dating Spanish guys." Santoro began "joking around" with her by telling her, "Well, Officer Dominguez, the one taking you down to Central Booking, he is a real nice Spanish cop and he is single. You might, you know, you might want to speak to him."

When the Respondent approached the holding cell and asked her if he could question her about check fraud, she told him, "I didn't fraud anybody. I said it was my sister. It was a dispute. If you want to talk to me, fine." He took her out of the cell, and escorted her down a "mini hallway that you have to walk past the bathroom, and then there was like a door that led to a room." She identified four photos as accurately depicting the holding cell area, the bathroom and the "back room" [Department's Exhibits (DX) 1-4]. She entered and used the bathroom. When she came out, he took her into a "back room." After she sat down on a chair and he sat down on a desk, he told her that a church that had been "robbed," that checks had been taken and he asked her if she knew of anybody or heard of anything about checks being used in a fraud. She "explained to him at that time that it was just a dispute with my sister, that I am not a fraud, I am not trying to steal anybody's identity, and that was pretty much the extent of

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the check fraud conversation" which lasted "at the most two minutes " They then had a nice chat for a few moments

The Respondent then told her that she "was not the typical person to go in there," that "most of the women are African-American, they are prostitutes and drug addicts" and that "he didn't understand why I was there " He then told her that the women who had previously been arrested and held there "like men to jerk off in front of them, okay, and they like to watch that, okay " He also told her that he had "heard upstairs that I like Spanish and black men, so I must like large dicks and would I be able to look at his and tell him if it's good enough " Alfieri testified that although she interpreted "good enough" to mean big enough for her, he did not say "big enough," he only said "good enough " She testified that after he said this, she "started getting a little bit nervous You know, the conversation was going from check fraud, to nice conversation, to more towards 'what is going on here?'"

She recalled that "at that point, he was not sitting on the desk anymore " Because he "was standing up like in the middle of the floor" and she was still seated, she "got very nervous " She recalled that she "couldn't believe that he was saying that to me," and "when I looked up his penis was in his hand He was asking me if it was good enough " She stood up and held her hand out in front of her with her palm open "to try to cover his genital area so I didn't have to see it " She told him, "Yeah, yeah, it's fine, you can put it away " She could see his penis was "fully erect " She saw "his boxers that was coming out of his pants His pants were zippered, they were still belted closed " She recalled that "his boxers were Irish green, that green grass color Like very bright that everybody wears on St. Patrick's Day, that type of green " His penis was "pinkish It was hard

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erect, there was a head on it " When she was asked if his penis was uncircumcised or circumcised, she answered, "Seeing it hard, I would consider it circumcised From my knowledge in years of, I guess, seeing different ones, I guess if it -- could it have been circumcised, I don't -- I am not a hundred percent sure It being hard and erect, it did not look circumcised There might have been a little extra skin I guess you can say on the shaft " He was holding his penis in his hand but "he wasn't jerking off, he wasn't doing anything like that," and he did not touch her

Because she was "disgusted" and "very agitated" and "very upset," she told him, "Okay, you doing this, is this getting me out of my time" Because if not, put me back in my fucking cell and let me get the fuck out of here Thank you " After she told him that if "this wasn't going to get me off of my fucking case, then put my back in my fucking cell and let me do my time," he told her, "Go ahead and walk " As she reentered the holding cell, he asked her if she wanted anything She asked him if she could have "something to drink, preferably a Pepsi because it is my favorite drink, and a cigarette " He said, "Okay," and walked after He soon returned carrying a cigarette and a Pepsi She was given matches and she smoked the cigarette while she was inside the holding cell He did not refuse to allow her to smoke and she never threatened to make a complaint against him for refusing to allow her to smoke He then left and she did not see him again

Sometime later, after what seemed to her at least two hours, Officer Dominguez came into the holding cell area with a prisoner She asked him, "Are we going to be going to Central Booking soon?" He told her that they would be leaving be shortly When he put her in a van, he asked her, "Is everything okay?" She told him, "I can use a



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cigarette" and he told her that they would be stopping for cigarettes. She told him that she felt "a little nervous" since "something happened in the precinct, and you know, I just don't really want to talk about it, but something happened." He told her to "stay quiet about it" and to "call Detective Santoro tomorrow." She replied, "Okay, not a problem." Because "he was very nice" he "calmed her down."

After she was processed at Central Booking, she was brought to the 50 Precinct where she was lodged overnight because there was not enough room at Central Booking. She told the female officer who put her in a cell at the 50 Precinct, that at the 47 Precinct, that after Santoro had left, that "some things happened that should not have happened" that made her feel very uncomfortable. The female officer told her not to say anything to anybody and to call Santoro the next day. After she was arraigned and released from custody, she called Santoro and told him that after he left another detective had questioned her and that she had felt very uncomfortable with the way he questioned her and that there were "things said that should not have been said or done." He got her in touch with the Internal Affairs Bureau (IAB). On June 5, 2009, she told her IAB interviewers that a detective at the 47 Precinct had exposed his penis to her because she believed that the Respondent was a detective. Her sister's fraud charge against her was dismissed in court.

She stated that as a result of what the Respondent did to her, "I wouldn't call the cops for anything. I don't trust them. I don't trust going into precincts any more. I do not want them near me. If something happened to my daughter, I would not want them coming around me because I cannot -- people that are given so much trust, you are supposed to protect and serve us. If that's what one officer will do, what would another

one do? I mean I had trust to a point, but like I said, if I was bleeding and dying on the floor, I would rather bleed and die

On cross-examination, she asserted that every answer she gave on direct examination was the truth. It was her understanding, based on a conversation with her attorney who told her that she was not going to have a record, that her sister's fraud charge against her had been dismissed. She testified that she does not recall and that she was not aware, that she had pleaded guilty and been convicted of Disorderly Conduct as a reduced charge from the arrest charge, and that she had received a conditional discharge as a sentence. She stated that she had not engaged in any Disorderly Conduct. She recalled that "they wanted me to perform community service," but that she was told by her attorney that she would not have to perform any community service. After her attorney told her that everything was going to be dismissed and that she was not going to have a record she told her attorney, "Okay." She recalled that she had stood in front of a Judge, but that the Judge kept talking and talking and talking and "my lawyer kept talking and talking" and "all my lawyer told me was just to sit there, agree, and that I was going to be dismissed with no charge and no record." June 4, 2009, when she was arrested by Santoro, was the only time she has ever been arrested. Santoro had arrested her because her sister had falsely alleged that she had opened up an account under her name. When she was arrested by Santoro she was unaware of what was going to happen, but Santoro promised her that she "was going to be out that evening and everything was going to be taken care of fine." She agreed that when she telephoned IAB, she told them that she was hysterical when she was initially arrested because it was traumatic on my mother" who "was sick and she had to deal with her two daughters and

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one of her daughters being arrested that has children that should be at home taking care of her kids ” She agreed that at that point in time, she had a lot going on in her life along with being arrest that day “but it was being handled ”

She was asked if she had indicated to IAB that she had a dislike for white men She responded, “No ” After she was read a transcript of the tape-recording of her telephone interview on June 5, 2009, she agreed that she had told her IAB interviewer that her father had beaten and abused her “and that’s why I don’t like white men ” She explained that her initial “no” response was the result of the fact that “it’s now almost two years later, everything that I have gone through, this is not the -- I understand why this is important to everybody here I’m not looking to sue I want to get somebody that should not be doing this out of their job because they shouldn’t be doing this ” She denied that she had lied about what she had told her IAB interviewer on June 5, 2009, and she explained that “you can’t expect me to remember everything that happened, detail by detail, word for word two years ago when I spoke to eight different officers ” She explained that she had no present recollection of having said that to her IAB interviewer on June 5, 2009, and she testified that “I don’t dislike white men I don’t like the fact that I had been abused by my father and have dents in my head from glass, that I do get scared and a little standoffish But do I not like white men? No, I do like them because I have two outstanding step-fathers that are white,” and a white “brother that has always looked out for my children ”

She agreed that when the Respondent exposed his penis to her she was able to get a good look at it After she was read a transcript of the tape-recording of her telephone interview on June 5, 2009, she agreed that she had stated, “I couldn’t tell you if it was

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circumcised or not I could tell you description,” and that later on during the interview she stated, “It was uncircumcised Because from what I saw,” and that she then quoted the Respondent as saying, “I’m already hard I can’t walk out like this ”

Regarding her statement that the Respondent’s penis appeared “uncircumcised,” she explained that “penises all look different Sometimes there is extra skin and it’s not uncircumcised and sometimes there is From my knowledge what it looked like, there was a head, it was hard, there was a shaft and there was a little extra skin on the shaft So could it have been circumcised? From what it looked like, the penises that I have seen that have been circumcised, that’s what it looked like ” When she was asked if she knew the difference between “something that’s uncircumcised and circumcised,” she responded, “I told you there are different ways My son is uncircumcised and he has a lot of extra skin I have seen penises that have been circumcised and still have extra skin I have seen penises that are uncircumcised and don’t have that much extra skin that it looks like a turtle So there are all different types To describe the type of penis he had, it was hard ”

She was confronted with statements she made at her second IAB interview on June 7, 2009 When she was asked, “Was he circumcised or uncircumcised?” She answered, “It was, I am going to be very honest with you, it was hard already, uncircumcised ”

She recalled that the cell attendant at the 50 Precinct that she told that something happened to her at the 47 Precinct was a tall, African-American female who was in “regular” uniform He agreed that when Detective Smith showed her a photo array of female officers, she did not recognize any of the faces in the photos as the officer she

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spoke with at the 50 Precinct. She recalled that it was dark inside the 50 Precinct prisoner holding area.

She agreed that after the Respondent placed her back in the holding cell, he asked her if she wanted anything and she asked if she could get a cigarette and a drink, preferably a Pepsi. He then left and brought a Pepsi back with him. He also gave her a cigarette and she smoked it inside the cell. There were no other female inmates in the cells but there were "two Jamaican guys" in cells near her cell who "knew what happened" because when the Respondent left the cell area to get her a cigarette and a drink, she "jumped" onto the cell grating and yelled to them, "He is a fucking maniac. The detective is a fucking maniac. He just pulled out his dick to me." One of the "Jamaican guys" told her, "Be quiet. They are going to come back." There were no officers in the cell area at that point. She testified that she believed that it was the Respondent who brought a match to light her cigarette.

On re-direct examination, she agreed that at an interview on June 8, 2010, she had stated, "I can't say if it's uncircumcised or circumcised because when a penis is hard, it's very hard to tell if the penis is actually circumcised or uncircumcised."

Detective Brian Smith

Smith, assigned to IAB Group 22, recalled that he was assigned to a case regarding an allegation by Alfieri that a detective assigned to the 47 Precinct had exposed himself to her after she had been arrested by Santoro. The initial call out regarding this investigation was handled by members assigned to IAB Group 21. They prepared a photo array which only contained photos of members assigned to the 47 Precinct.

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Detective Squad (PDS) When that initial photo array was shown to Alfieri she did not identify any of the photos

It was determined that the Respondent had been assigned to the 47 Precinct on June 4, 2009, and that he was on duty that day Smith prepared a photo array which contained the Respondent's photo and the photos of other members of the service which Smith obtained from a photo array system that is on IAB computers When that photo array was shown to Alfieri on June 8, 2010, Alfieri took only "seconds" to identify the Respondent as the officer who had exposed himself to her

Smith conducted an official Department interview of the Respondent on November 30, 2010 When the Respondent was shown Alfieri's photo, he stated that he recognized her When he was asked whether he had any interaction with Alfieri on June 4, 2009, at the 47 Precinct, he stated that, while she was in custody, she went to use the bathroom and she asked to smoke a cigarette He told her that she could not have a cigarette and she became very irate with him and told him that she is going to make a complaint about him He told her that if she wanted to make a complaint, she could call IAB

On cross-examination, Smith agreed that the cell area of the 47 Precinct has surveillance cameras that are trained on the holding cells and that it would be the desk sergeant's responsibility to monitor these surveillance cameras Smith confirmed that he did not interview the desk sergeants that were working at the 47 Precinct on June 4, 2009 Smith confirmed that when he interviewed Alfieri she told him that she had jumped on the cell after the incident, yelled and screamed, and accused the Respondent of exposing himself to her



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Smith agreed that prisoners are not permitted to smoke while they are in holding cells or anywhere else inside a Department facility and that if an officer allowed a prisoner to smoke inside of a cell that would be considered misconduct

Smith agreed that he had characterized Alfieri in worksheets he prepared as being uncooperative because she could be difficult to reach and she also made appointments and failed to appear several times

Smith agreed that he had characterized Alfieri in a September 20, 2010, worksheet as "credibility is questionable" because she had eluded interviews with him and with the Bronx County District Attorney's Office Smith confirmed that the Bronx County District Attorney's Office declined to prosecute the Respondent

Smith confirmed that based on Alfieri's statement that she had told a cell matron at the 50 Precinct that something happened to her while she was being detained at the 47 Precinct, he showed her a photo array of female officers assigned to the 50 Precinct, but she did not identify any of the photos as being a photo of the female officer she spoke to at the 50 Precinct

Detective Claude Rhone

Rhone, assigned to IAB Group 11, recalled that on June 6, 2009, he was on duty assigned to the IAB Command Center at 315 Hudson Street when, at about 2245 hours, he received a call from a complainant whose name was Alfieri and that soon thereafter he received a call from Santoro in regard to Alfieri's complaint Santoro's call was tape-recorded The transcript of the tape recording of Santoro's call was admitted into evidence (DX 5)

POLICE OFFICER OWEN HOPPERThe Respondent's Case

The Respondent testified in his own behalf

The Respondent

The Respondent, who has been a member for over six years, testified that he went to Iona College on September 8, 2009, to meet his "ex-girlfriend" [REDACTED] in the library. His relationship with [REDACTED] at that point was "volatile" because he had become engaged to be married to another woman. He first went to the gym and because he had gym shorts on and did not want his firearm to be "showing," he put his firearm inside his book bag. After he entered the library, he overheard an Iona security radio broadcasting "my description" and "that something happened with me or someone called to complain." He "thought [REDACTED] was making an allegation" against him. Since he was not a student at Iona, he was "technically" trespassing by being present in the library. He "panicked," changed his clothing, and discarded the clothing that matched the description he had heard being broadcast over the security radio. He then went downstairs, met up with Iona security officers, identified himself as a police officer, and answered their questions. They told him that he was free to go but that he was not allowed to return to the campus. He was not handcuffed or issued any summonses. He did not report the incident to IAB or the Operations Unit because he "wasn't detained or any police action was taken against me so I didn't think it was necessary" but based on what he knows now looking back he should have reported this "police contact." Some time after this date, he called [REDACTED] on the telephone and told her that IAB would be contacting her about this but he did not tell her what to say or what not to say.

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During June, 2009, he was assigned to the 47 Precinct but he was temporarily assigned to work in the 47 PDS "helping out the detectives mainly with the burglary investigations and any detective that needed help I would help them" regarding tasks such as processing arrests and fingerprinting He "would sit in on the interviews and do some paperwork and go out with them for interviews "

On June 4, 2009, he first saw Alfieri when she was "upstairs in the Detective Squad " He asserted that Santoro asked him to escort her to the bathroom He could not recall whether he "brought her downstairs" or whether he "went downstairs" to get her, but he did escort her to the bathroom, "the one in the back " After he brought her into the bathroom, she closed the door He stood outside while she went to the bathroom When she came out of the bathroom, she said she wanted a cigarette He told her that she was not allowed to have a cigarette in the precinct She became upset and demanded to know, "Why not? Why not?" He told her, "You can't have a cigarette You have to go, you are going to Central Booking " She asked him, "What do you mean? I thought I wasn't in that much trouble " He testified that "she got very combative with me " He told her, "Listen, you need to relax, you need to relax You can't have a cigarette You can't have anything " She became "more volatile " He told her, "If you don't shut your mouth you are going to get another charge " She told him, "I am going to make a complaint about you " He told her, "Go ahead, call IAB and make a complaint " He took her back to the holding cell and then he went back upstairs to the PDS He denied that while he was escorting her to or from the bathroom he ever had any conversation with her of a personal nature or that he made any personal comments to about her physical appearance and that

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he never showed her his penis, which is circumcised. He did not tell anyone that she wanted to make a complaint against him.

The Respondent offered a letter from his general physician Dr. Barney Newman (Respondent's Exhibit A) dated March 24, 2011, which states that he has performed physical examinations of the Respondent since 2006 and that he has always been "a circumcised male."

On cross-examination, the Respondent agreed that his relationship with [REDACTED] was "pretty much" purely sexual and that he had dated her even though he was engaged at the time. He testified that after he heard the radio transmission, he suspected that [REDACTED] had contacted Iona security officers and provided them with his description because she had been calling him numerous times on his cell phone asking for money and he had been telling her to leave him alone. He told her that he would meet her in a neutral place and they agreed to meet in the Iona library but he never saw her there that day. She knew that he was a police officer.

He admitted that he was careless when he left his backpack containing his loaded firearm on a desk in the library as he walked around the library. He changed his clothes inside the bathroom of the library because he heard campus security radioing a description of the clothing he was wearing. After he walked up to a campus security officer outside the library, New Rochelle Police Department officers arrived and informed him that a complaint had been made against him but "they would not tell me who or what." He admitted that the reason he did not notify the Department is because he was afraid of getting in trouble. When he called [REDACTED] he told her that IAB might contact her.

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With regard to June 4, 2009, the Respondent confirmed that he believed that Alfieri had made her allegation against him because he would not allow her to smoke a cigarette "and the fact that she was being arrested she was upset "

FINDINGS AND ANALYSISIntroduction

This trial concerned two separate incidents. One off-duty incident and one on-duty incident. The off-duty incident involved the Respondent's actions while he was on the campus of Iona College (IC) on September 8, 2009, and a telephone call he made later that month. The on-duty incident involved an allegation by Elizabeth Alfieri that the Respondent made vulgar and profane comments to her and exposed his penis to her.

Disciplinary Case No. 86501/10

It is charged that on September 8, 2009, while he was on the campus of IC, the Respondent failed to properly safeguard his firearm in that he placed his firearm in his backpack and it was not in a locked, fixed container, that he failed to notify the Department that he was the subject of an investigation being conducted by IC Campus Security and the New Rochelle Police Department, and that he wrongfully impeded this investigation in that he attempted to elude IC Campus Security officers by changing and discarding his clothing after he became aware that they were looking for a male individual matching his description. Finally, it is charged that on a date between September 8, 2009, and September 30, 2009, he engaged in conduct prejudicial to the good order, efficiency and discipline of the Department in that after he became aware that he was the subject of a Department investigation, he informed [REDACTED], who was a

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witness regarding this investigation, that she would be contacted by Department investigators

The Respondent, having pleaded Guilty, is found Guilty

Disciplinary Case No 2010-3250

It is charged that on June 4, 2009, after Alfieri had been arrested by Detective Santoro and while she was being detained at the 47 Precinct awaiting to be transported to Central Booking, the Respondent made vulgar and profane comments to her and exposed his penis to her

I find the Respondent Guilty because I credit Alfieri's testimony. Although any allegation made against a member of the service by a prisoner who is under arrest and is being detained must be closely scrutinized, here Alfieri's testimony has the ring of truth. It is not disputed that Alfieri is not a career criminal and that her arrest by Santoro on a complaint lodged by her sister concerned a nonviolent, family dispute about money. Moreover, the record is devoid of any claim by the Respondent, or any other evidence, that Alfieri was drunk or high on drugs when the Respondent removed her from a holding cell to escort her to a bathroom.

I credit Alfieri's testimony that the Respondent took her into a room near the bathroom and told her that some female prisoners "like to watch" when "men jerk off in front of them," that he had "heard upstairs that" she "liked Spanish and black men so" she "must like large dicks," and that he wanted her to look at his and tell him if it was "good enough." I also credit Alfieri's claim that the Respondent then exposed his erect penis to her.



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Alfieri's testimony has the ring of truth not only because she promptly reported her victimization to IAB's Rhone and to Santoro (DX 5), and not only because she has consistently offered a highly detailed account of what the Respondent said to her and the manner in which he exposed his penis to her, but also because her description of what he said and did was devoid of suspect embellishment. In recounting the vulgar remarks the Respondent made to her, Alfieri did not claim that the Respondent had suggested that they have sex or that he had asked her to perform a sexual act on him. She did not even claim that he had uttered the word "fuck." The only profanity she quoted him as using was the word "dicks" and the expression "jerk off." Moreover, she candidly acknowledged that immediately after he exposed himself to her she had used profanity when she told him, "Okay, you doing this, is this getting me out of my time? Because if not, put me back in my fucking cell and let me get the fuck out of here. Thank you" because "if this wasn't going to get me off of my fucking case, then put me back in my fucking cell and let me do my time."

Similarly, in recounting the manner in which he exposed his erect penis to her, she testified that he held his penis in his hand but "he wasn't jerking off" or "doing anything like that," and that he never tried to touch her.

If Alfieri was inventing a false accusation against the Respondent, it is likely that she would have offered a more profanity-laced description of what he had said to her, or that she would have claimed that he had solicited sex from her, or that she would have at the very least claimed that he had asked her to touch, not merely look at, his erect penis.

The believability of Alfieri's version of this event is also enhanced by the fact that she was careful during her testimony to recount the exact words the Respondent had

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used For example, when Alfieri testified that the Respondent had followed up his remark that she "must like large dicks" by asking her to look at his and tell him if it was "good enough," she emphasized that although she had interpreted "good enough" to mean big enough for her, he had not actually said "big enough," he had only said "good enough "

The Respondent corroborated Alfieri's testimony that on June 4, 2009, he was on the second floor of the 47 Precinct working in the PDS at the point in time when she was conversing with Santoro, that he was dressed in plain clothing, that he escorted her to the bathroom, and that she asked him for a cigarette

The Respondent testified on cross-examination that because he supposedly told Alfieri that she could not have a cigarette and because she was upset that she was being arrested, Alfieri invented out of whole cloth her highly detailed description of the vulgar remarks he directed at her and her allegation that he had exposed his erect penis to her That Alfieri would make such serious accusations against the Respondent, and that she would pursue these allegations for 22 months, merely because he refused to give her a cigarette is difficult to believe His claim that the other reason she falsely accused him was because she was upset that she was being arrested makes no sense since Alfieri was fully aware that it was Santoro, not the Respondent, who had arrested her

The Respondent argued that Alfieri's claim that the Respondent exposed his penis to her should be rejected because he has a circumcised penis (RX A) and at an IAB interview on June 7, 2009, when she was asked, "Was he circumcised or uncircumcised?" She answered, "It was, I am going to be very honest with you, it was hard already, uncircumcised " I credit her trial testimony that because his penis was "hard" and "erect"

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at the time that she saw it, she could not be one hundred percent certain as to whether it appeared to be circumcised or uncircumcised

As to the Respondent's argument that Alfieri's testimony should be rejected because she testified that the Respondent had handed her a cigarette and allowed her to smoke it in her cell, although prisoners are not permitted to smoke in holding cells, the only evidence offered by the Respondent that prisoners being detained at the 47 Precinct were never given cigarettes and never allowed to smoke, was the Respondent's own testimony

The Respondent also argued that Alfieri's allegations against the Respondent should be rejected because she stated at an IAB interview "that is why I dislike white men " However, I credit her trial testimony that this off-the-cuff comment was a reference to the abuse that she had suffered as a child at the hands of her father and her trial claim that she does not actually dislike all white men is supported by her testimony that Santoro was helpful to her, that he joked with her about her penchant for Hispanic men, and that he treated her in a respectful manner

The Respondent also argued that Alfieri offered incredible testimony when she asserted that her sister's fraud charge against her had been dismissed in court. However, the mere fact that her attorney did not clearly communicate to her the fact that he was entering a plea of guilty on her behalf to the violation of Disorderly Conduct, and the fact that she was receiving a conditional discharge as a sentence, does not serve to refute her testimony regarding what the Respondent said and did to her. Alfieri explained that her confusion that her case had been dismissed was the result of her attorney telling her that she was not going to have a criminal record because the arrest charge regarding her

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sister's allegation of fraud was being dismissed. With regard to the conditional discharge sentence, the Respondent offered no evidence to refute her claim that she was only aware that there was a discussion as to whether she would have to perform community service and that, although the prosecutor wanted her to have to perform community service, she was not required to perform any community service.

Finally, the Respondent attempted to depict Alfieri as an uncooperative and, therefore, incredible complainant based on a report Smith prepared regarding her failure to appear for certain appointments. However, the record shows that Alfieri has demonstrated tenacity in pursuing her allegation against the Respondent. The IAB Group of 21 officers who were initially assigned to investigate Alfieri's complaint could easily have ascertained that the Respondent, who met the description that Alfieri promptly provided to Santoro and IAB (DX 5, page 3), was working at the 47 PDS on June 4, 2009. However, Alfieri reported to IAB and Santoro that she thought that the male who had exposed his penis to her inside the stationhouse was a detective (a reasonable assumption on her part based on his dress and the fact that she saw him working in the PDS near Santoro). This resulted in a photo showing at which Alfieri was not shown a photo of the Respondent. Although Alfieri could have concluded that IAB was not really interested in her complaint and she could have refused to cooperate with IAB any further, when Smith asked her a full year later to look at more photos, she agreed to do so. Most significantly, she appeared to testify and be cross-examined at this trial even though nearly two years have passed since the Respondent exposed himself to her. Based on the above, I credit her statement at this trial that the only reason she agreed to testify was

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because of her strong belief that the Respondent deserved to be punished for doing to her what no police officer should ever do to anyone

The Respondent is found Guilty

PENALTY

In order to determine an appropriate penalty, the Respondent's service record was examined See *Matter of Pell v Board of Education*, 34 N Y 2d 222 (1974)

The Respondent was appointed on January 10, 2005 Information from his personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum

With regard to Disciplinary Case No 86501/10, the Respondent admitted that he carelessly stored his loaded firearm in his backpack which he left on a library table while he walked around the library; that he failed to notify the Department that he was the subject of an investigation being conducted by IC Campus Security and the New Rochelle Police Department, and that he wrongfully impeded this investigation in that he attempted to elude IC Campus Security officers by changing his clothing and by discarding the clothing that he had been wearing after he became aware that IC Campus Security officers were looking for a male individual matching his description, and that he engaged in conduct prejudicial to the good order, efficiency and discipline of the Department in that after he became aware that he was the subject of a Department investigation, he informed a witness that she would be contacted by Department investigators

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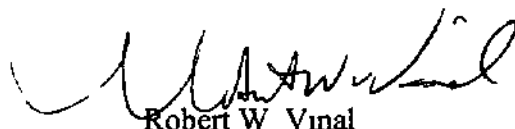
Although the Respondent asserted that he had done nothing wrong on the IC campus, his unexplained and inexplicable attempt to elude IC Campus Security officers by changing his clothes and discarding the clothing items that he had been wearing after he became aware that IC Campus Security officers were seeking a male wearing the clothing items that the Respondent discarded, raises questions about why he "panicked" on the IC campus that day. Viewed together, the Respondent actions on the IC campus and his unauthorized call to the witness constitute serious misconduct.

With regard to Disciplinary Case No. 2010-3250, the Respondent engaged in even more serious misconduct by making vulgar and profane comments to Alfieri and by exposing his penis to her while he was on duty.

The Assistant Department Advocate recommended that the Respondent be Dismissed from the Department.

Having examined the facts and circumstances surrounding the Respondent's misconduct, I recommend that the Respondent be DISMISSED from the New York City Police Department.

Respectfully submitted,



Robert W. Vinal

Assistant Deputy Commissioner - Trials

**APPROVED**  
SEP 28 2011  
  
**RAYMOND W. KELLY**  
POLICE COMMISSIONER



POLICE DEPARTMENT  
CITY OF NEW YORK

From Assistant Deputy Commissioner - Trials  
To Police Commissioner  
Subject CONFIDENTIAL MEMORANDUM  
POLICE OFFICER OWEN HOPPER  
TAX REGISTRY NO 936780  
DISCIPLINARY CASE NOS 86501/10 & 2010-3250

The Respondent received an overall rating of 4.0 on his 2010 performance evaluation, 3.5 on his 2009 evaluation, and 4.0 on his 2008 evaluation. He has been awarded two Meritorious Police Duty medals and four Excellent Police Duty medals. [REDACTED] He has no prior formal disciplinary record.

For your consideration



Robert W. Vinal  
Assistant Deputy Commissioner – Trials